

ASSEMBLY BILL

No. 1137

Introduced by Assembly Member Dymally

February 22, 2005

An act to add Section 71092.3 to the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 1137, as introduced, Dymally. Community colleges: appointment of trustee for fiscal stability.

Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law requires the board of governors to appoint a chief executive officer, known as the Chancellor of the California Community Colleges. Existing law authorizes the establishment of community college districts under the administration of community college governing boards. Existing law authorizes the board of governors to provide, by regulation, for the appointment of a special trustee to manage a district that fails to achieve fiscal stability.

Existing law, until January 1, 2008, permits the board of governors to authorize the chancellor to suspend, for a period of up to one year, the authority of the Board of Trustees of the Compton Community College District, or of any of the members of that board, to exercise any powers or responsibilities or to take any official actions with respect to management of the district or any of the district's assets, contracts, expenditures, facilities, funds, personnel, or property.

Existing law authorizes the chancellor, with the prior approval of the board of governors, to renew a suspension as often as he or she finds it necessary. If and when the chancellor suspends the authority of the board of trustees or any of its members pursuant to this

provision, existing law authorizes the chancellor to appoint a special trustee, in accordance with specified regulations of the board of governors, at district expense, to manage the Compton Community College District.

Existing law authorizes the chancellor to assume, and delegate to the special trustee, those powers and duties of the board of trustees that the chancellor determines, with the approval of the board of governors, are necessary for the management of the Compton Community College District. Existing law prohibits the board of trustees from exercising any of the duties or powers assumed by the chancellor under this provision.

Existing law requires the board of governors, in the event that it determines that it may be necessary to maintain authority over the Compton Community College District granted by existing law beyond January 1, 2008, to make that recommendation, and its reasons therefor, in writing, to the Legislature and the Governor no later than July 1, 2007.

This bill would, commencing on January 1, 2008, also make these provisions applicable to other community college districts. In addition, the bill would require the chancellor to do all of the following before he or she would be authorized to suspend the authority of a community college district governing board: review plans prepared and adopted by the district pursuant to a specified regulation, find that these plans are inadequate to solve the financial plans of the district, conduct a comprehensive management review of the district and an audit of the district's financial condition, and direct the district to amend and readopt its fiscal and educational plans based upon the findings of the comprehensive management review and audit.

The bill would require the chancellor, in addressing the financial problems of the district under the bill, to prepare an assessment of what led to the district's fiscal crisis, an improvement and action plan for addressing deficiencies in the district's services and procedures, a process for assessing the district's progress in correcting the deficiencies identified under this provision, and benchmarks that will indicate the district's capacity to manage its fiscal responsibilities. The bill would also require the chancellor to file a written status report with the appropriate fiscal and policy committees of the Legislature, including any special committees created for the purpose of reviewing the reports, and with the Members of the Legislature who represent the area within the jurisdiction of the district, the advisory council of

the community college district, the board of governors, the Director of Finance, and the Secretary for Education.

The bill would also impose certain conditions on the chancellor's authority to renew a suspension.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares that the
2 appointment, by the Chancellor of the California Community
3 Colleges, of a special trustee to manage a community college
4 district, and the chancellor's delegation to the special trustee of
5 the powers and duties of the governing board of a community
6 college district, are drastic remedies that require due process. The
7 Legislature finds and declares that restoring local capacity to a
8 community college district that has lost the ability to manage its
9 fiscal affairs is the only viable long-term solution to ensuring the
10 proper stewardship of public resources and student access to a
11 high quality community college education.

12 (b) It is, therefore, the intent of the Legislature to accomplish
13 both of the following:

14 (1) Prior to the appointment of any special trustee, the Board
15 of Governors and the Chancellor of the California Community
16 Colleges must work with the present administrators and the
17 governing boards of impacted community college districts to
18 restore their capacity to manage their own financial affairs.

19 (2) Provide the Board of Governors of the California
20 Community Colleges with specific authority to ensure the
21 stabilization of the financial condition of an impacted community
22 college district.

23 SEC. 2. Section 71092.3 is added to the Education Code, to
24 read:

25 71092.3. Notwithstanding any other provision of law:

26 (a) The chancellor shall review any plans prepared and
27 adopted by a community college district pursuant to Section
28 58310 of Title 5 of the California Code of Regulations, and shall
29 determine whether these plans are adequate to achieve fiscal
30 stability. If the chancellor determines that these plans are
31 inadequate to solve the financial problems or to implement the

1 principles of sound fiscal management, or if the district
2 substantially fails to implement these plans, the chancellor shall
3 first utilize measures that minimize interference with normal
4 district operations, unless he or she determines that acting
5 otherwise is necessary to prevent the worsening of the fiscal
6 conditions of the district. The chancellor is then authorized to
7 take any of the following actions:

8 (1) Conduct a comprehensive management review of the
9 district and its educational programs, and conduct an audit of the
10 financial condition of that district. The chancellor may also
11 contract for, or request another appropriate agency to conduct,
12 the review and audit referenced in this paragraph, or require the
13 district, at the expense of the district, to contract for the review or
14 the audit. The terms and conditions of the contract and the final
15 selection of a contractor under this paragraph shall be subject to
16 the written approval of the chancellor.

17 (2) Direct the governing board of the district to amend and
18 readopt the fiscal and educational plans that the district prepared
19 pursuant to Section 58310 of Title 5 of the California Code of
20 Regulations, based upon the findings of the comprehensive
21 management review and audit conducted under paragraph (1).

22 (b) (1) If, after the occurrence of the events set forth in
23 subdivision (a), and after a hearing before the board of governors
24 providing an opportunity for the district to respond, the board of
25 governors finds that the district has failed to maintain fiscal
26 integrity and remains unable to manage its own recovery, the
27 board of governors may authorize the chancellor or the special
28 trustee to exercise powers approved by the board of governors,
29 for a period of up to one year, unless the board of governors
30 approves one or more one-year extensions.

31 (2) The exercise by the chancellor or special trustee of powers
32 approved by the board of governors under paragraph (1) shall be
33 subject to all legal requirements applicable to the district. The
34 governing board of the district may not exercise any power that is
35 assumed under paragraph (1).

36 (3) The board of governors may authorize the chancellor or
37 special trustee to exercise any powers or authority of the
38 governing board of the district, or of any of the members of that
39 board, to exercise any powers or responsibilities or to take any
40 official actions with respect to the management of the district,

1 including any of the district's assets, contracts, expenditures,
2 facilities, funds, personnel, or property. The chancellor may
3 delegate any authority delegated to him or her under this
4 subdivision to a special trustee.

5 (4) For the period of time during which the chancellor
6 exercises the authority described in this subdivision, the
7 governing board of the community college district shall serve as
8 an advisory body reporting to the chancellor or the special
9 trustee, but the members of the governing board shall have no
10 rights, duties, or powers, and shall not be entitled to any stipend,
11 benefits, or other compensation from the district.

12 (5) The chancellor or special trustee shall consider, on at least
13 a monthly basis, information from one or more groups from each
14 of the following categories:

15 (A) The governing board of the district.

16 (B) Any advisory council of the district.

17 (C) Representatives from the community in which the district
18 is located.

19 (D) The County Office Fiscal Crisis and Management
20 Assistance Team.

21 (c) In addressing the financial problems of a district under this
22 subdivision, the chancellor shall accomplish all of the following
23 within the designated intervals after assuming authority under
24 this section:

25 (1) Within 60 days, prepare a written assessment of what led
26 to the district's fiscal crisis.

27 (2) Within 60 days, prepare an improvement and action plan
28 for addressing deficiencies in the district's services and
29 procedures.

30 (3) Within 120 days, prepare a process for assessing the
31 district's progress in correcting the deficiencies identified under
32 paragraphs (1) and (2).

33 (4) Within 120 days, prepare benchmarks that will indicate the
34 district's capacity to manage its fiscal responsibilities.

35 (5) Within six months, the chancellor shall file a written status
36 report with the appropriate fiscal and policy committees of the
37 Legislature, including any special committees created for the
38 purpose of reviewing the reports, and with the Members of the
39 Legislature who represent the area within the jurisdiction of the
40 district, the advisory council of the community college district,

1 the board of governors, the Director of Finance, and the
2 Secretary for Education. The report shall describe the progress
3 that the district is making in meeting the recommendations of the
4 improvement plan developed pursuant to this section. The
5 chancellor shall recommend to the board of governors those
6 designated functional areas of the district operation that it
7 determines are appropriate for the governing board of the district
8 to assume.

9 (d) With the prior approval of the board of governors, the
10 chancellor may renew a suspension under this section as many
11 times, and as often, as he or she finds it necessary during the
12 period of operation of this section, provided that all of the
13 following have occurred:

14 (1) The chancellor makes a finding that the plans of the district
15 remain inadequate to solve the district's financial problems.

16 (2) A new independent audit has been completed.

17 (3) The chancellor finds that the district is unable to correct
18 any deficiencies identified in the audit conducted pursuant to
19 paragraph (2).

20 (e) A suspension authorized by this section becomes effective
21 immediately upon the delivery of a document to the
22 administrative offices of the district that sets forth the finding of
23 the chancellor that a suspension pursuant to this section is
24 necessary for the establishment of fiscal integrity and financial
25 security in that district.

26 (f) If and when the chancellor suspends the authority of the
27 governing board of the district or any of its members pursuant to
28 this section, the chancellor may appoint a special trustee as
29 provided in paragraph (3) of subdivision (c) of Section 84040, at
30 district expense, to manage the district. The chancellor is
31 authorized to assume, and delegate to the special trustee, those
32 powers and duties of the governing board of the district that the
33 chancellor determines, with the approval of the board of
34 governors, are necessary for the management of that district. The
35 governing board of the district may not exercise any of the duties
36 or powers assumed by the chancellor under this section. The
37 chancellor may appoint as a special trustee under this section a
38 person who has served in a similar capacity prior to the
39 enactment of the act that adds this section. A special trustee

1 appointed under this section shall serve at the pleasure of the
2 chancellor.

3 (g) Nothing in this section shall be construed either to prohibit
4 any otherwise qualified member of any community college
5 district governing board from becoming a candidate for
6 reelection to that office, or to prohibit any otherwise qualified
7 individual from becoming a candidate for membership on any
8 community college district governing board, during any period in
9 which the authority of the district governing board has been
10 suspended under this section.

11 (h) This section shall become operative on January 1, 2008.

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